

SECOND REGULAR SESSION

HOUSE BILL NO. 1834

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LOWE, GREEN (15), GEORGE, FOLEY, BLAND,
BOWMAN AND SELBY (Co-sponsors).

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TED WEDEL, Chief Clerk

4494L.02I

AN ACT

To amend chapter 191, RSMo, by adding thereto two new sections relating to testing of persons who expose care providers to contagious or infectious disease.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 191.630 and 191.631, to read as follows:

191.630. As used in sections 191.630 and 191.631, the following terms mean:

2 **(1) "Care provider", a person who is trained and authorized by federal or state law**
3 **to provide health care services or services of any kind in the course of such person's official**
4 **duties, for compensation or in a voluntary capacity, who is a health care provider,**
5 **emergency medical care provider, firefighter, or peace officer. Care provider includes a**
6 **Good Samaritan as defined in section 192.800, RSMo;**

7 **(2) "Contagious or infectious disease", hepatitis in any form, meningococcal**
8 **disease, tuberculosis, and any other disease, except AIDS or HIV infection as defined in**
9 **section 191.650, determined to be life-threatening to a person exposed to the disease as**
10 **established by rules adopted by the department, in accordance with guidelines of the**
11 **Centers for Disease Control and Prevention of the Department of Health and Human**
12 **Services;**

13 **(3) "Department", the Missouri department of health and senior services;**

14 **(4) "Emergency medical care provider", a licensed or certified person trained to**
15 **provide emergency and nonemergency medical care as a first responder, EMT-B, or EMT-**
16 **P as defined in section 190.100, RSMo, or other certification or licensure levels adopted by**
17 **rule of the department;**

18 **(5) "Exposure", the risk of contracting disease as determined by the Centers for**

19 **Disease Control and Prevention of the Department of Health and Human Services and**
20 **adopted by rule of the department;**

21 **(6) "Health care provider", a person licensed to practice medicine and surgery,**
22 **osteopathic medicine and surgery, osteopathy, chiropractic, podiatry, nursing, dentistry,**
23 **optometry, or as a physician assistant, dental hygienist, or acupuncturist;**

24 **(7) "HIV", the same meaning as defined in section 191.650;**

25 **(8) "Hospital", the same meaning as defined in section 197.020, RSMo.**

191.631. 1. (1) Notwithstanding any other law to the contrary, if a care provider
2 **sustains an exposure from a person while rendering health care services or other services,**
3 **the person to whom the care provider was exposed is deemed to consent to a test to**
4 **determine if the person has a contagious or infectious disease and is deemed to consent to**
5 **notification of the care provider of the results of the test, upon submission of an exposure**
6 **report by the care provider to the hospital or other individual specified in this section to**
7 **whom the person is delivered by the care provider.**

8 **(2) The hospital or other individual specified in this section to whom the person is**
9 **delivered shall conduct the test. If the person is delivered by the care provider to an**
10 **institution administered by the department of corrections, the test shall be conducted by**
11 **the staff physician of the institution. If the person is delivered by the care provider to a**
12 **jail, the test shall be conducted by the attending physician of the jail or the county medical**
13 **examiner. The sample and test results shall only be identified by a number and shall not**
14 **otherwise identify the person tested.**

15 **(3) A hospital, institutions administered by the department of corrections, and jails**
16 **shall have written policies and procedures for notification of a care provider pursuant to**
17 **this section. The policies and procedures shall include designation of a representative of**
18 **the care provider to whom notification shall be provided and who shall, in turn, notify the**
19 **care provider. The identity of the designated representative of the care provider shall not**
20 **be disclosed to the person tested. The designated representative shall inform the hospital,**
21 **institution, or jail of those parties who receive the notification, and following receipt of**
22 **such information and upon request of the person tested, the hospital, institution, or jail**
23 **shall inform the person of the parties to whom notification was provided.**

24 **2. If a person tested is diagnosed or confirmed as having a contagious or infectious**
25 **disease pursuant to this section, the hospital or other individual conducting the test shall**
26 **notify the care provider or the designated representative of the care provider who shall**
27 **then notify the care provider.**

28 **3. The notification to the care provider shall advise the care provider of possible**
29 **exposure to a particular contagious or infectious disease and recommend that the care**

30 provider seek medical attention. The notification shall be provided as soon as is reasonably
31 possible following determination that the individual has a contagious or infectious disease.
32 The notification shall not include the name of the person tested for the contagious or
33 infectious disease unless the person consents. If the care provider who sustained an
34 exposure determines the identity of the person diagnosed or confirmed as having a
35 contagious or infectious disease, the identity of the person shall be confidential information
36 and shall not be disclosed by the care provider to any other individual unless a specific
37 written release obtained by the person diagnosed with or confirmed as having a contagious
38 or infectious disease.

39 4. This section does not require or permit, unless otherwise provided, a hospital,
40 health care provider, or other individual to administer a test for the express purpose of
41 determining the presence of a contagious or infectious disease; except that testing may be
42 performed if the person consents and if the requirements of this section are satisfied.

43 5. This section does not preclude a hospital or health care provider from providing
44 notification to a care provider under circumstances in which the hospital's or health care
45 provider's policy provides for notification of the hospital's or health care provider's own
46 employees of exposure to a contagious or infectious disease that is not life-threatening if the
47 notice does not reveal a patient's name, unless the patient consents.

48 6. A hospital, health care provider, or other individual participating in good faith
49 in complying with the provisions of this section is immune from any liability, civil or
50 criminal, which may otherwise be incurred or imposed.

51 7. A hospital's or health care provider's duty of notification pursuant to this section
52 is not continuing but is limited to diagnosis of a contagious or infectious disease made in
53 the course of admission, care, and treatment following the rendering of health care services
54 or other services to which notification pursuant to this section applies.

55 8. A hospital, health care provider, or other individual who is authorized to
56 perform a test pursuant to this section who performs the test in compliance with this
57 section or who fails to perform the test authorized pursuant to this section is immune from
58 any liability, civil or criminal, which may otherwise be incurred or imposed.

59 9. A hospital, health care provider, or other individual who is authorized to
60 perform a test pursuant to this section has no duty to perform the test authorized.

61 10. The department shall adopt rules to implement this section. The department
62 may determine by rule the contagious or infectious diseases for which testing is reasonable
63 and appropriate and which may be administered pursuant to this section. No rule or
64 portion of a rule promulgated under the authority of this section shall become effective
65 unless it has been promulgated pursuant to chapter 536, RSMo.

66 **11. The employer of a care provider who sustained an exposure pursuant to this**
67 **section shall pay the costs of testing for the person who is the source of the exposure and**
68 **of the testing of the care provider if the exposure was sustained during the course of**
69 **employment; except that, the department shall pay the costs of testing for the person who**
70 **is the source of the significant exposure and of the testing of the care provider who renders**
71 **direct aid without compensation.**